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64TH CONGRESS
1st Session

SENATE

DOCUMENT
No. 394

UNALLOTTED LANDS OF THE CREEK NATION

LETTER

OF

THE OFFICERS OF THE CREEK NATION TO SENATOR ROBERT L. OWEN URGING THE PASSAGE OF THE JOINT RESOLUTION (S. J. R. 114) WITHHOLDING FROM ALLOTMENT THE UNALLOTTED LANDS OR PUBLIC DOMAIN OF THE CREEK NATION OR TRIBE OF INDIANS, AND PROVIDING FOR THE SALE THEREOF, AND FOR OTHER PURPOSES

PRESENTED BY MR. OWEN

MARCH 23, 1916.—Referred to the Committee on Printing

WASHINGTON
GOVERNMENT PRINTING OFFICE
1913

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REPORTED BY MR. CHILTON.

IN THE SENATE OF THE UNITED STATES,
March 30 (calendar day, April 9), 1916.

Resolved, That the manuscript submitted by the Senator from Oklahoma (Mr. Owen) on March 23, 1916, entitled "Memorial of Creek Nation as to withdrawal of certain tribal lands from allotment," by R. C. Allen, national attorney for Creek Nation, be printed as a Senate document.

Attest:

JAMES M. BAKER,
Secretary.

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LETTER OF TRANSMITTAL.

ROOM No. 209, INDIAN OFFICE,
Washington, D. C., March 21, 1916.

Hon. ROBERT L. OWEN,
United States Senate, Washington, D. C.

MY DEAR SENATOR: I am inclosing herewith a letter signed by the officers of the Creek Nation, urging the passage of your resolution withholding from allotment the unallotted lands or public domain of the Creek Nation.

If it is possible to have this letter, with inclosures, printed as a Senate document I wish you would send me as many copies as can be obtained.

Very respectfully,

R. C. ALLEN,
National Attorney for the Creek Nation.

MEMORIAL OF CREEK NATION AS TO WITHDRAWAL OF CERTAIN TRIBAL LANDS FROM ALLOTMENT.

ROOM NO. 209, INDIAN OFFICE.
Washington, D. C., March 18, 1916.

Hon. ROBERT L. OWEN,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Referring to Senate joint resolution 114, withholding from allotment the unallotted lands or public domain of the Creek Nation or Tribe of Indians and providing for the sale thereof, and for other purposes, we desire to call your attention to the pressing importance of the passage of this resolution at this time.

During the last session of Congress a similar provision was introduced in the House of Representatives by Mr. Murray and in the Senate by you. Exhaustive hearings were had before the Committee on Indian Affairs of the House of Representatives and also before the Committee on Indian Affairs of the Senate, and the printed hearings contain a full discussion of this proposed legislation.

Just after the adjournment of the Sixty-third Congress the President entered an Executive order withdrawing all unallotted lands of the Creek Tribe of Indians from allotment pending the enactment of legislation by Congress. Mr. Murray during the present session of Congress has again introduced this joint resolution in the House.

We are transmitting herewith, for your information, the following inclosures:

Copy of a letter to Hon. Cato Sells, Commissioner of Indian Affairs, dated March 9, 1915.

Copy of a letter from the Secretary of the Interior to the President, recommending the withdrawal of these lands from allotment, dated March 11, 1915.

Copy of an order signed by the Secretary of the Interior on March 11, 1915, and approved by the President on March 13, 1915.

Copy of a letter from the Commissioner of Indian Affairs to Hon. William H. Murray, dated December 3, 1915.

We are now about to compromise one of the many cases pending in the United States court to cancel allotments, and which allotments are being sought by enrolled members of the tribe who have, in most cases, abandoned other allotments they were seeking to file upon and secure allotments of greater value. One such person is a freedwoman named Lula Butler, who has attempted to file upon the Coker allotment, involved in the litigation we are trying to settle. Should this case be compromised, the allotment will revert to the Creek Nation, and Lula Butler will be paid a consideration in cash to relinquish her claim. If at that time Congress has not withdrawn

these lands from allotment, some other alleged enrolled and unallotted citizen or freedman of the Creek Nation will cloud the title by filing upon the land.

It seems to us that this resolution has much merit and that the justness to the other members of the tribe is apparent of enacting this law, which will prevent a few oil men, lawyers, and citizens from combining and securing several allotments, worth more than $1,000,000 each, when Congress knows that the average allotment in the Creek Nation is not worth more than $2,000, if that much, and was valued at from $80 to $1,040 for the purpose of fixing values to equalize allotments.

We do not believe that the resolution, if understood, will have any opposition.

You will remember that the Indian appropriation act for the year ending June 30, 1915, carried a provision for the enrollment of 65 Creek citizens. Every one of these people were as much entitled, and more so, to a valuable allotment as any one of these 6 or 7 Creeks who are seeking these allotments, for these 65 were the poor unfortunate Creeks who, though entitled originally to be enrolled and allotted, through some misfortune, in most cases due to their inability to understand their rights, were left off the rolls, while these 6 or 7 were smart enough (most of them are freedmen) to get on the rolls, and have not been allotted because ever since they were enrolled they have been trying to get lands more valuable than their neighbor and have been deprived of doing so at the expense to the rightful allottees of prolonged contests.

Notwithstanding these facts Congress enrolled these 65 and provided, in order to keep them from getting these valuable allotments, that they should be paid $800 in lieu of an allotment of land. Why pay these poor unfortunate full bloods $800 and allow a few freedmen to receive more than $1,000,000 to be divided between them and the oil men and lawyers, who are financing their claim? We are not yet persuaded that Congress will do the tribe of Indians we represent this great injustice.

We earnestly urge prompt consideration of the resolution proposed by you and sincerely hope that Congress will not longer stay its passage.

Very respectfully,

MOTY TIGER,
Principal Chief, Creek Nation.
G. W. GRAYSON,
National Interpreter.
R. C. ALLEN,
National Attorney.

ROOM NO. 209, INDIAN OFFICE.
Washington, D. C. March 9, 1915.

Hon. CATO SELLS,
Commissioner of Indian Affairs, Washington, D. C.

SIR: I have the honor to again call your attention to a number of reported filings of alleged Creek citizens on valuable oil lands in the Creek Nation, and to suggest, if I may, a procedure which, I think will result in reserving these lands for the entire tribe.

There is now pending in the United States court for the eastern district of Oklahoma the case of the United States *v.* Bessie Wildcat et al., alleged heirs of Barney Thlocco, intended to cancel the allotment certificate and patent issued to Barney Thlocco, in which it is alleged that this allottee died prior to April 1, 1889, and was therefore not entitled to an allotment.

This allotment is now producing approximately 9,000 barrels of oil daily. The lowest estimate any experienced oil man places upon the value of production is $200 per barrel. Based upon this valuation the Thlocco allotment would at this time bring at least $1,800,000. It is confidently believed that this production will be largely increased, as there have been drilled only about 11 wells on the entire tract at this time.

Some time ago an alleged citizen of the Creek Nation by the name of David Bowlegs, and subsequently another, Jack Elton Wilson, filed with the superintendent for the Five Civilized Tribes, at Muskogee, application to be permitted to file upon this allotment.

Another very important case is the United States *v.* Minnie Atkins et al., involving the alleged fraudulent allotment made to Thomas Atkins. Upon the theory that Thomas Atkins never lived, being a mere myth, this action was brought in the United States court, at Muskogee, to cancel the allotment certificate and patent issued to Thomas Atkins.

Recently an alleged newborn Creek Freedman, Quentin Garrett, filed with the United States superintendent at Muskogee an application to be allotted this land. The allotment is worth more than $1,000,000 at this time, and was nearly as valuable when Quentin Garrett first sought to have it allotted to him.

In addition to these cases there are a number of allotments in the Creek Nation of great value, being sought in allotment by members of the tribe.

I deem it unnecessary at this time to discuss this matter at any considerable length, or to call attention to the reasons why prompt and aggressive action should be taken by the Department of the Interior to save these lands for all the members of the tribe.

The question involved here was the subject of exhaustive hearings before the Committee on Indian Affairs of the House of Representatives and of the Senate during the recent session of Congress, and a joint resolution having for its purpose the withdrawal of all unallotted lands in the Creek Nation on account of the great value of the allotments being sought by individual members of the tribe was favorably reported by the Committee on Indian Affairs of the House of Representatives, which joint resolution finally passed the House just a few days before the adjournment of Congress.

The Indian bill, which failed of passage, contained the following provision:

> No future allotment shall be made in the Creek Nation except as may be hereafter authorized by Congress.

I am advised that this provision of the Indian bill was finally agreed upon by the conferees of the House and Senate.

In view of the great expense that will necessarily be incurred in the cancellation of the patents heretofore issued to alleged citizens of the Creek Nation, conveying the legal title of the tribe to these

extraordinarily valuable allotments, and the apparent injustice that would result in so inequitable a distribution of the lands of the Creek Nation should any one citizen of the tribe be permitted to receive one of these allotments, and the indorsement the proposal has received in both the House and Senate, I respectfully request that an Executive order be recommended temporarily withdrawing from allotment all of the unallotted public domain of the Creek Nation.

Section 46 of the original Creek agreement, approved March 1, 1901, provides:

> All things necessary to carry into effect the provisions of this agreement not otherwise herein specifically provided for shall be done under authority and direction of the Secretary of the Interior.

This same agreement provides in effect that the lands of the Creek Tribe of Indians shall be equally divided among the members of the tribe. Similar provisions were contained in the supplemental agreement.

I am very strongly of the opinion that the Secretary of the Interior not only has the power, but that it is his plain duty, to deny any citizen of the Creek Nation the right to file upon any allotment of land of excessive value under existing laws. However, out of an abundance of caution, the order suggested should be procured.

Very respectfully,

R. C. ALLEN,
National Attorney.

DEPARTMENT OF THE INTERIOR,
Washington, March 11, 1915.

MY DEAR MR. PRESIDENT: I have the honor to transmit herewith an order this day signed by me, withdrawing temporarily from allotment pending the enactment of legislation by Congress, the remaining tribal lands of the Creek Nation of Indians.

There are three suits pending in the United States court for the eastern district of Oklahoma, brought on behalf of the Creek Nation, involving the title of said nation to the beds of the Arkansas and Cimarron Rivers within said nation. It is estimated that the property involved in said suits is worth approximately $22,000,000. There are also pending in said court a number of suits brought on behalf of the Creek Nation for the recovery of certain tracts of land erroneously allotted to persons not entitled thereto. The land involved in said suits is very valuable by reason of oil and gas deposits. In three cases alone it is estimated that the land in each case is worth about $1,000,000. Attempts are being made to file on said lands for members of the Creek Nation who either have not received allotments heretofore or have lost their allotments in suits in court. It is claimed that under existing laws enrolled members of the Creek Tribe who have not received allotments have the right to file in allotment on any of the surplus unreserved public domain of the Creek Nation.

Because of the very great value of the remaining public domain of the Creek Nation, including the lands the title to which the Government is seeking to recover for the benefit of the Creek Nation, it is not believed to be for the best interests of the Creek Nation to

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permit such valuable lands to be allotted to individuals who, if such lands should be allotted to them would thereby receive allotments of a value far in excess of land of the average allottable value.

This matter was the subject of exhaustive hearings before the Committees on Indian Affairs of the United States Senate and of the House of Representatives during the recent session of Congress, and there was contained in the Indian appropriation bill, which bill, however, failed of passage, the following provision:

No future allotment shall be made in the Creek Nation, except as may be hereafter authorized by Congress.

The object of this order is to withdraw these valuable oil lands from allotment to individual members of the Creek Tribe of Indians until legislation can be procured making permanent such withdrawal, which legislation, it is also expected, will provide for the payment to all enrolled and unallotted citizens of the Creek Nation a sum of money equal to the appraised value of an average allotment in the Creek Nation.

In view of the great value of the land being sought in allotment by certain members of the Creek Tribe of Indians, I feel that every effort possible should be made to withhold these lands from allotment, in order that they might be ultimately sold and the proceeds divided among all the members of the tribe. Without passing upon the question of whether or not these lands are allottable, under existing laws, I respectfully recommend the approval by you of the inclosed order.

Cordially, yours,

FRANKLIN K. LANE.

The PRESIDENT,
The White House.

TEMPORARY WITHDRAWAL OF CREEK TRIBAL LANDS FROM ALLOTMENT.

It is hereby ordered that all unallotted lands or public domain of the Creek Nation or Tribe of Indians in Oklahoma, including any land the title to which has been or may be recovered for the Creek Nation in any pending or other suit or otherwise, be, and the same is hereby, temporarily withheld from allotment to members of said nation or tribe, pending the enactment of legislation by Congress, during which time no certificate or patent shall be issued conveying to any member of the Creek Tribe of Indians any of said lands in allotment.

Dated this 11th day of March, 1915.

FRANKLIN K. LANE,
Secretary of the Interior.

THE WHITE HOUSE,
March 13, 1915.

Approved.

WOODROW WILSON.

DECEMBER 3, 1915.

MY DEAR MR. MURRAY: I have received your letter of December 1, 1915, in which you refer to House joint resolution 380, which was introduced in the Sixty-third Congress by you, and which had for its purpose the withdrawal of the unallotted lands or public domain of the Creek Nation from allotment.

The remaining tribal land of the Creek Nation is very valuable by reason of oil and gas deposits. Attempts are being made by certain members of the Creek Nation and other persons claiming to be members to file on said land in allotment. Because of the very great value of said remaining public domain of the Creek Nation, including the lands the allotment of which was fraudulently obtained and which the Government is seeking to recover for the benefit of the Creek Nation, it is not believed to be for the best interests of said nation to permit such valuable lands to be allotted to individuals who, if such lands should be allotted to them, would thereby receive allotments of a value far in excess of land of the average allottable value. In view of the great value of said land I feel that every effort possible should be made to withhold it from allotment, as it would be more equitable that such property should be sold or leased and the proceeds deposited to the credit of the tribe for future equal distribution among the citizens of the Creek Nation.

I shall therefore be pleased if the resolution is reintroduced in the present Congress and promptly passed. I shall be glad if you will urge its passage. A copy of the resolution is transmitted herewith.

Very truly, yours,

CATO SELLS, *Commissioner.*

Hon. WILLIAM H. MURRAY,
House of Representatives.

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